

## Message Text

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ACTION EUR-25

INFO OCT-01 ADP-00 CIAE-00 DODE-00 PM-07 H-03 INR-10 L-03

NSAE-00 NSC-10 PA-03 RSC-01 PRS-01 SS-15 USIA-12

ACDA-19 MBFR-03 SAJ-01 OMB-01 TRSE-00 IO-13 EB-11

NIC-01 SCI-06 RSR-01 /147 W  
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R 161225Z JUL 73

FM USMISSION BERLIN

TO AMEMBASSY BONN

INFO SECSTATE WASHDC 2075

AMEMBASSY LONDON

AMEMBASSY MOSCOW

AMEMBASSY PARIS

USMISSION NATO

C O N F I D E N T I A L SECTION 1 OF 2 BERLIN 1202

E.O. 11652: GDS

TAGS: PGOV, WB, GE, GW

SUBJECT: PROPOSAL FOR SENAT-GDR NEGOTIATIONS UNDER QA

REF: A) BERLIN 870; B) BERLIN A-127; C) STATE 110246

1. SUMMARY: SENAT DESIRE (WITH FRG SUPPORT) TO ENTER INTO DIRECT NEGOTIATIONS WITH GDR IN REGARD TO WATER QUESTIONS RAISES NEED TO COME TO GRIPS WITH GENERAL PATTERNS OF ALLIED ROLE IN SENAT-GDR NEGOTIATIONS. SENAT PROPOSES THAT ALL SUCH NEGOTIATIONS BE SUBSUMED UNDER COMMUNICATIONS PROVISIO OF QA. ACTION REQUESTED: EARLY DECISION BY ALLIED EMBASSIES ON BEST WAY TO PROCEED; A POSSIBLE FORMULA IS OUTLINED BELOW. END SUMMARY.

2. ADDRESSEES WILL RECALL THAT IN RESPONSE TO MAY 10 GDR SUGGESTION THAT SENAT ENTER INTO TALKS ON ENVIRONMENTAL QUESTIONS CONCERNING WATERWAYS, SENAT MAY 18 SENT REPLY THAT QUESTION HAD BEEN REFERRED TO FRG AS ONE OF MATTERS  
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ON WHICH COOPERATION WAS ENVISAGED UNDER BASIC TREATY (REF A).

PRESSED FOR FURTHER RESPONSE BY GDR, WHICH HAS CHOSEN TO DISREGARD MAY 18 REPLY, SENAT HAS TRANSMITTED TO ALLIES FOR APPROVAL DRAFT LETTER, CLEARED WITH FRG, FROM SENATOR FOR HOUSING AND CONSTRUCTION RIEBSCHLAEGER TO GDR ENVIRONMENT AND WATER CONSERVATION MINISTRY, WHICH WOULD INFORM GDR THAT SENAT ACCEPTS IN PRINCIPLE PROPOSAL TO BEGIN TALKS. DRAFT STATES THAT TALKS WOULD BE CARRIED ON UNDER PART II(C) AND ANNEX 3, PARA 1 OF QA, WHICH ENVISAGE AGREEMENT BETWEEN RESPONSIBLE GERMAN AUTHORITIES FOR IMPROVEMENT OF COMMUNICATIONS.

3. AT MEETING WITH POLADS JULY 9, HEAD OF CHANCELLERY HERZ SAID BAHR AND KOHL AGREED AT JUNE 29 MEETING THAT COMMUNICATIONS PROVISIO OF QA COULD PROVIDE UMBRELLA FOR ALL FUTURE SENAT-GDR NEGOTIATIONS, AND SENAT WISHED TO MAKE WATER ENVIRONMENT TALKS FIRST TEST. SENAT HOPED TO RESTRICT SENAT-GDR NEGOTIATIONS ON THIS SUBJECT TO SPECIFIC PROBLEM AREAS, WHICH CONCERNED WATER CONSERVATION, LEAVING BROADER QUESTIONS FOR FRG TO NEGOTIATE IN ENVIRONMENT AGREEMENT UNDER SUPPLEMENTARY PROTOCOL TO ARTICLE 7 OF BASIC TREATY THAT WOULD BE EXTENDED TO WEST BERLIN. HERZ SAID THAT IN LIGHT OF APPARENT UNDERSTANDING REACHED BY BAHR-KOHL, SENAT NOW AGREED WITH FRG THAT IT WOULD NOT BE DESIRABLE TO CREATE NEW "GREY" CATEGORY SENAT-GDR ARRANGEMENTS, BUT INSTEAD ALL AGREEMENTS COULD EITHER COME UNDER BASIC TREATY OR QA.

4. ALLIES HAVE TOLD SENAT THAT THEY WOULD SEEK TO COMMENT ON WATERWAYS LETTER AS SOON AS POSSIBLE, BUT, SINCE IT WOULD SET PATTERN FOR OTHER NEGOTIATIONS, INCLUDING PENDING QUESTIONS SUCH AS RESCUE AGREEMENT, PROPOSED DISCUSSIONS ON CLEANING UP REFUSE ON GDR TERRITORY WEST OF WALL, ENTRY OF PROPOSED OIL PIPELINE INTO WEST BERLIN, ETC., THEY WOULD WISH TO GIVE IT CAREFUL ATTENTION.

5. APPROACH SUBJECT WITH BASIC ASSUMPTION THAT IT IS IN ALLIED INTEREST TO SEE FRG ASSUME AS MUCH OF BURDEN OF NEGOTIATING WITH GDR ON BEHALF OF WEST BERLIN AS POSSIBLE IN ORDER TO: (A) EMPHASIZE WEST BERLIN'S TIES TO FRG; (B) AVOID CREATION OF ALRGE CORPUS OF SENAT-GDR AGREEMENTS, EXISTENCE OF WHICH COULD BE USED BY GDR TO STRENGTHEN ITS CONFIDENTIAL

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CLAIM THAT WEST BERLIN IS INDEPENDENT POLITICAL ENTITY; AND, (C) OBTAIN BETTER SUBSTANTIVE RESULTS FOR WEST BERLIN BY TAKING ADVANTAGE OF FRG'S GREATER POLITICAL MUSCLE. THERE IS AT LEAST SOME QUESTION WHETHER ESTABLISHMENT OF CATEGORY OF GREY AGREEMENTS ENVISAGED IN GENERAL BK/L STILL ON BON GROUP DOCKET (REF C) WOULD ADVANCE OR HINDER THIS OBJECTIVE. WE ARE PREPARED, THEREFORE, TO ACCEPT FRG-SENAT THESIS THAT THIS MAY NOT BE TACTICALLY OPPORTUNE TIME TO CONSIDER SUCH

STEP.

6. IF ALLIES WERE TO AGREE THAT WATER ENVIRONMENT AND OTHER  
SIMILAR SUBJECTS MIGHT BE NEGOTIATED BY SENAT UNDER QA,  
WE COULD CONSIDER THAT AUTHORIZATION HAS ALREADY BEEN GIVEN  
BY ALLIED APPROVAL OF SENAT-GDR VISITS ARRANGEMENT, WHICH  
INCLUDED ORAL STATEMENT BY TWO SIDES TO CARRY ON SUCH FURTHER  
TALKS AS MIGHT BE NECESSARY FOR IMPROVEMENT OF COMMUNICATIONS.  
IT WOULD REMAIN NECESSARY, HOWEVER, FOR ALLIES TO DETERMINE  
IN EACH INDIVIDUAL INSTANCE WHETHER PARTICULAR TOPIC THAT  
SENAT WISHED TO TAKE UP APPROPRIATELY CAME UNDER "COMMUNICATIONS."  
AT THE LEAST, THEREFORE, DRAFT LETTER FROM SENATOR RIEBSCHLAEGER  
WOULD HAVE TO MAKE POINT THAT ALLIES HAD BEEN CONSULTED AND  
HAD AGREED THAT SENAT COULD UNDERTAKE NEGOTIATIONS UNDER QA.  
(PRESENT DRAFT, BY REFERENCE TO MAY 18 SENAT INTERIM REPLY,  
WHICH MENTIONED CONSULTATIONS WITH FRG, IMPLIES THAT FRG  
RATHER THAN ALLIES IS COMPETENT TO AUTHORIZE FURTHER NEGOTIATIONS UNDER QA.) AS WATER CONSERVATION NEGOTIATION OR  
OTHER NEGOTIATIONS WERE CONCLUDED, WE WOULD HAVE TO CONSIDER  
ON CASE-BY-CASE BASIS WHETHER AND HOW TO AUTHORIZE SENAT  
TO ENTER INTO AGREEMENT AND HOW THAT AGREEMENT WAS ITSELF  
TO BE LINKED TO QA. OUR PREFERENCE WOULD BE TO REQUIRE  
SENAT TO INCLUDE REFERENCE TO QA IN TEXT OF AGREEMENT,  
AS WAS DONE LAST YEAR WITH AGREEMENT FOR PURCHASE OF  
POTSDAMER BAHNHOF. FALLBACKS MIGHT INCLUDE UNILATERAL  
SENAT STATEMENT AT TIME OF SIGNING, OR LANGUAGE IN  
BK/L AUTHORIZING SENAT TO CONCLUDE AGREEMENT.

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NIC-01 SCI-06 RSR-01 /147 W

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R 161225Z JUL 73

FM USMISSION BERLIN  
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INFO SECSTATE WASHDC 2076  
AMEMBASSY LONDON  
AMEMBASSY MOSCOW  
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7. WE ARE NOT CERTAIN, HOWEVER, THAT IT WOULD NECESSARILY BE GOOD THING FOR ALL AGREEMENTS AND ARRANGEMENTS THAT ARE NOT TO BE NEGOTIATED BY FRG TO BE HANDLED BY SENAT EXPLICITLY UNDER QA. ONE PITFALL IN KEEPING QA WIDE-OPEN DOCUMENT, OF COURSE, IS POSSIBILITY THAT SOVIETS MIGHT CLAIM A SAY ANALOGOUS TO THAT OF ALLIES IN EVERYDAY MATTERS IN WESTERN SECTORS IF SUCH MATTERS WERE TO BE NEGOTIATED WITH GDR UNDER QA UMBRELLA. OFFHAND, HOWEVER, WE WOULD ASSUME THAT SOVIET-GDR CONSULTATIONS WILL TAKE PLACE IN ANY EVENT AND BELIEVE WE COULD FACE PROBLEM OF UNACCEPTABLE SOVIET INTERVENTION IF AND WHEN WE COME TO IT.

8. OF GREATER CONCERN IS POSSIBILITY THAT GDR MAY WELL CONSIDER THAT IT HAS OBTAINED THROUGH BAHR-KOHL CHANNEL AND SUBSEQUENT ALLIED CONCURRENCE CONSENT THAT VIRTUALLY ALL AGREEMENTS INVOLVING WEST BERLIN'S INTERESTS WOULD HENCEFORTH BE NEGOTIATED BY SENAT UNDER QA. THIS MIGHT, IN THEIR VIEW, SUPERSEDE AGREEMENT IN DECLARATION ON BERLIN ATTACHED TO BASIC TREATY THAT FRG CAN REPRESENT WEST BERLIN'S  
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INTERESTS WITH GDR. IT COULD ALSO FURTHER GDR'S OBJECTIVE OF SEPARATING FRG FROM WEST BERLIN BY INTERPOSING ALLIES BETWEEN WEST BERLIN AND FRG AS PARTIES MOST CONCERNED WITH OPERATION OF QA.

9. WAY OUT OF DILEMMA MIGHT BE TO TAKE ADVANTAGE OFF OCCASION PRESENTED BY NEED TO AUTHORIZE SENAT RESPONSE ON WATER CONSERVATION TALKS IN ORDER TO SET GROUND RULES FOR THOSE AND SIMILAR NEGOTIATIONS. WE WOULD ENVISAGE VARIATION OF EARLIER BK/L ADVANCED BY BERLIN MISSIONS AIMED, HOWEVER, NOT AT CREATING THIRD CATEGORY OF "GREY" AGREEMENTS BUT AT CLARIFYING DISTINCTION BETWEEN TWO CATEGORIES. WE WOULD AUTHORIZE SENAT TO NEGOTIATE WITH GDR UNDER QA PROVISIONS ON IMPROVEMENT IN COMMUNICATIONS. "CERTAIN PRACTICAL ADMINISTRATIVE OR HUMANITARIAN PROBLEMS OF A PURELY LOCAL CHARACTER" (LANGUAGE NOW USED IN PENDING DRAFT SENAT-GDR ARRANGEMENTS BK/L). AT SAME TIME, NEW BK/L WOULD REAFFIRM THAT AUTHORIZATION TO SENAT WAS WITHOUT PREJUDICE TO AUTHORIZATION ALLIES GAVE SENAT IN BK/L(73)21(BASIC TREATY BK/L) TO HAVE ITS INTERESTS REPRESENTED BY FRG PURSUANT TO BASIC TREATY.

10. THREE MISSIONS HAVE HAD PRELIMINARY DISCUSSIONS ON THESE POINTS, BUT WE ARE DOUBTFUL THAT WE WILL BE ABLE TO DEVELOP COORDINATED POSITION HERE, EVEN THOUGH THERE ARE SIGNS FRENCH MAY BE RELAXING PAST POSITION THAT QA SHOULD BE CONSIDERED CLOSED DOCUMENT. EMBASSY MAY ACCORDINGLY WISH TO RAISE SUBJECT IN TRIPARTITE FORUM TO ASSIST DEVELOPMENT OF AGREED RESPONSE TO BE MADE TO OUTSTANDING REQUEST FOR ALLIED VIEWS ON WATER CONSERVATION QUESTION AS WELL AS APPROACH TO BE FOLLOWED IN REGARD TO OTHER SENAT-GDR NEGOTIATIONS. WHILE THERE IS TENDENCY ON PART OF BOTH GDR AND SENAT TO EXAGGERATE TIME PRESSURES FOR NEGOTIATIONS, WE URGE EARLY ACTION TO AVOID APPEARANCE OF INDECISION, WHICH CAN ONLY WEAKEN ALLIED AUTHORITY AS WELL AS FABRIC OF COOPERATION WITH SENAT. WITH THIS THOUGHT IN MIND, WE ALSO SUGGEST, WITHOUT PREJUDICE TO CONSULTATION WITH FRG, THAT FINAL ALLIED POSITION BE COMMUNICATED IN BERLIN RATHER THAN IN BONN GROUP.BORG

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## Message Attributes

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**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** n/a  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 16 JUL 1973  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** worrelsw  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1973BERLIN01202  
**Document Source:** CORE  
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**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** GS BORG  
**Errors:** N/A  
**Film Number:** n/a  
**From:** BERLIN  
**Handling Restrictions:** n/a  
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**Legacy Key:** link1973/newtext/t19730732/aaaaaxou.tel  
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**Locator:** TEXT ON-LINE  
**Office:** ACTION EUR  
**Original Classification:** CONFIDENTIAL  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 5  
**Previous Channel Indicators:**  
**Previous Classification:** CONFIDENTIAL  
**Previous Handling Restrictions:** n/a  
**Reference:** 73 A) BERLIN 870; B) BERLIN A-127; C, ) STATE 110246  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** worrelsw  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 17 AUG 2001  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <17-Aug-2001 by martinml>; APPROVED <28 FEB 2002 by worrelsw>  
**Review Markings:**

Declassified/Released  
US Department of State  
EO Systematic Review  
30 JUN 2005

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** PROPOSAL FOR SENAT-GDR NEGOTIATIONS UNDER QA  
**TAGS:** PGOV, WB, GC, GE  
**To:** STATE  
**Type:** TE  
**Markings:** Declassified/Released US Department of State EO Systematic Review 30 JUN 2005